

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LINCOLN UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014060819

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On June 13, 2014, Student filed a Due Process Hearing Request¹ (complaint) naming Lincoln Unified School District (District).

On June 27, 2014, District filed a Notice of Insufficiency (NOI) as to Student's complaint on the grounds the complaint does not tell District what "it has, allegedly done wrong...does not provide sufficient details of the nexus between the allegations and the facts supporting the issues...[and] does not provide a sufficient nexus between the allegations and the proposed resolutions."

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.³ These requirements prevent vague and confusing complaints, and promote fairness by providing the

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

² 20 U.S.C. § 1415(b) & (c).

³ 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.⁴

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁵ The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁷

DISCUSSION

The facts alleged in Student’s complaint are sufficient to put District on notice of the issues forming the basis of the complaint. According to the complaint, Student turned eighteen on May 26, 2014, and attended Lincoln High School “with a functioning IEP in place with the District for the last three years.” The complaint essentially alleges that District failed to provide appropriate placement and services by “dis-enrolling” Student, failed to provide an appropriate transition plan and various other procedural and substantive IDEA violations. The factual allegations include the dates of IEP meetings and other events, the date meetings and certain events occurred, the District personnel involved, and a brief description of what transpired. There appear to be some inconsistencies or perhaps typographical errors in some places. For example, in a chronology of six events from May through June 2012 and numbered paragraphs four through nine, the date in paragraph seven is written as June 20, 2011. However, overall, the dates, events, and descriptions are adequate to inform District of the problems. Student’s complaint identifies the issues and adequate related facts about the problems to permit District to respond to the complaint and participate in a resolution session, mediation and to prepare for hearing.

⁴ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁵ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁶ *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

⁷ Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

The complaint contains a wide range of proposed resolutions, some of which are within the remedies available in a due process hearing, e.g., a request for an IEP meeting, a transition plan to prepare Student for post secondary education, and compensatory education. The proposed resolutions stated in Student's complaint are not well-defined, and some are not available in this proceeding. However, Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

ORDER

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: July 02, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings